

## Role of Directors in Corporate Governance

Directors play a central role in establishing and maintaining a company's corporate governance framework. Their primary responsibilities include setting strategic direction, supervising management, ensuring regulatory compliance, safeguarding stakeholder interests, and promoting transparency and accountability across the organization.

Key governance responsibilities of the Board include:

- **Strategic Oversight:** Approving business strategy, capital allocation, risk appetite, and long-term objectives.
- **Risk Management:** Establishing systems to identify, evaluate, and mitigate key business risks.
- **Compliance & Ethics:** Ensuring adherence to applicable laws, regulations, corporate policies, and ethical standards.
- **Performance Monitoring:** Evaluating senior management performance and ensuring effective succession planning.
- **Stakeholder Protection:** Acting in the best interests of shareholders and other stakeholders, including employees, customers, suppliers, and the community.

## Fiduciary Duty of Directors

Directors—whether executive or non-executive—are fiduciaries. Their responsibilities arise from trust reposed in them and require acting honestly, loyally, and with due care.

### 1. Executive Directors (EDs)

Executive Directors are full-time members involved in day-to-day management.

**Fiduciary duties include:**

- **Duty of Care & Skill:** Apply professional expertise and diligence in business operations.
- **Duty of Loyalty:** Avoid conflicts of interest, refrain from self-dealing, and prioritize company interests over personal gain.
- **Duty of Good Faith:** Make decisions that they genuinely believe are in the company's best interests.
- **Compliance Oversight:** Ensure the management team adheres to regulatory, statutory, and internal governance standards.
- **Operational Accountability:** Provide the Board with accurate, timely, and complete information for informed decision-making.

### 2. Non-Executive Directors (NEDs)

NEDs provide independent judgement, oversight, and broad governance experience without being part of day-to-day operations.

**Fiduciary duties include:**

- **Independent Oversight:** Challenge executive decisions, question assumptions, and ensure accountability.
- **Risk & Governance Monitoring:** Protect shareholder value by monitoring controls, risk frameworks, and business conduct.
- **Conflicts Management:** Maintain independence and avoid situations that compromise objective judgement.
- **Ethical Stewardship:** Uphold corporate values, transparency, and fairness in Board deliberations.

While EDs manage operations and NEDs oversee them, **both share equal fiduciary responsibility** for board decisions under company law.

**Stakeholder Relationship Committee (SRC)**

Under Regulation 20 of the SEBI (LODR) Regulations, listed companies must establish a Stakeholder Relationship Committee.

**Purpose:**

To ensure effective oversight of stakeholder grievances and strengthen trust between the company and its stakeholder groups.

**Key functions:**

- **Resolve investor complaints** related to share transfers, dividend issues, annual reports, and dematerialization.
- **Monitor service standards** of registrars and transfer agents (RTAs).
- **Strengthen investor communication** and enhance transparency.
- **Review patterns of complaints**, response timelines, and systemic issues.
- **Ensure compliance** with SEBI regulations on investor protection.

This committee reinforces accountability and enhances the company's corporate governance reputation.

**Nomination & Remuneration Committee (NRC)**

Required under the Companies Act, 2013 and SEBI (LODR), the NRC plays a pivotal role in ensuring transparent and merit-based Board and leadership appointments.

**Key functions:**

- **Board Composition & Diversity:** Identify individuals qualified to become directors or senior executives; ensure skills, experience, and diversity requirements are met.
- **Performance Evaluation:** Annually evaluate Board, committee, and individual director performance.
- **Remuneration Policy:** Frame fair, transparent, and performance-driven compensation policies for directors, KMPs, and senior management.
- **Succession Planning:** Ensure continuity through robust leadership succession frameworks.
- **Fit & Proper Criteria:** Ensure director independence, integrity, and regulatory compliance.

**Importance:**

The NRC helps shape an ethical, skilled, and effective leadership team, directly strengthening corporate governance.

## **A: ROLE OF DIRECTORS IN CORPORATE GOVERNANCE**

*(With reference to Companies Act, 2013)*

### **1. Introduction to Corporate Governance**

Corporate governance refers to the **systems, rules, and processes** by which companies are directed and controlled.

In India, the governance framework is derived from:

- **Companies Act, 2013**
- **SEBI (LODR) Regulations, 2015**
- Secretarial Standards (SS-1 and SS-2)
- Internal charters, policies, and codes of conduct

**Directors** sit at the apex of this governance structure.

### **2. Legal Definition of a Director**

Under **Section 2(34)** of the Companies Act, 2013, a *director* means a person appointed to the Board.

Boards must have:

- At least **1 director** who is resident in India (Section 149(3))
- **Minimum 3 directors** for public companies, **2** for private companies (Section 149(1))
- Listed companies must have **Independent Directors** as per Section 149(4)

### **3. Role of the Board of Directors**

The Board's role is a mix of:

- **Strategic oversight**
- **Risk management**
- **Compliance supervision**
- **Ethical leadership**
- **Stakeholder protection**

#### **A. Strategic Responsibilities**

- Approving strategic plans and budgets
- Monitoring industry trends and guiding long-term direction

- Reviewing major capital expenditures, mergers, acquisitions, and divestments

## **B. Risk Management Responsibilities**

- Section 134 requires Boards to report on *risk management policies*
- Review internal controls (Section 177 for audit committee oversight)
- Ensure cyber, financial, legal, and operational risks are monitored

## **C. Compliance Responsibilities**

- Approve and maintain *adequate internal financial controls*
- Ensure compliance with:
  - Companies Act
  - SEBI Regulations
  - Industry-specific laws
- Ensure proper disclosures under Section 134

## **D. Oversight of Management**

- Selecting, evaluating, and remunerating senior management
- Ensuring succession planning (NRC oversight under Section 178)
- Reviewing performance of CEO/CFO

## **E. Duty to Stakeholders**

Though traditionally shareholder focused, the Companies Act (Section 166(2)) expands accountability to:

- Shareholders
- Employees
- Community
- Environment

## **B: FIDUCIARY DUTIES OF DIRECTORS**

*(Executive Directors & Non-Executive Directors)*

### **1. Statutory Basis of Fiduciary Duties**

The Companies Act, 2013 codifies director duties under **Section 166**, including:

1. Duty to act in accordance with articles (166(1))

2. Duty to act in good faith (166(2))
3. Duty to exercise care, skill, and diligence (166(3))
4. Duty to avoid conflicts of interest (166(4))
5. Duty not to achieve undue gain (166(5))
6. Duty not to assign office (166(6))

These fiduciary duties apply equally to:

- **Executive Directors (EDs)**
- **Non-Executive Directors (NEDs)**
- **Independent Directors (IDs)** (with enhanced expectations under Schedule IV)

## **2. Fiduciary Duties of Executive Directors**

Executive Directors are involved in daily business operations.

### **A. Duty of Care, Skill & Diligence**

- Must apply professional judgment
- Must be well-informed about operational matters
- Must oversee risk and compliance practically

### **B. Duty of Good Faith**

- Act honestly and with integrity
- Protect company's long-term interests

### **C. Duty of Loyalty**

- Must not place themselves in situations of conflict (166(4))
- Must avoid misuse of company property, information, opportunities

### **D. Operational Responsibilities**

- Ensure legal compliance in day-to-day operations
- Provide accurate financial reporting (Section 134)
- Implement strong internal controls

### **E. Duty to Disclose**

- Must disclose any interest in contracts (Section 184)
- Must abstain from participating when conflicted

### **3. Fiduciary Duties of Non-Executive Directors (including Independent Directors)**

Non-Executive Directors **do not manage daily operations** but play a critical oversight role.

#### **A. Duty of Independent Judgment**

- Evaluate management decisions without bias
- Provide constructive challenge

#### **B. Duty to Monitor Governance & Controls**

- Participate actively in Board & Committee meetings
- Review financial statements, audit findings, compliance reports

#### **C. Duty to Avoid Conflicts**

- Must remain independent from management influence
- Maintain transparency of personal or financial interests

#### **D. Enhanced Duties of Independent Directors**

Under **Schedule IV**, IDs must:

- Safeguard stakeholder interests
- Lead committees (Audit, NRC, SRC)
- Report concerns regarding misconduct
- Bring objective judgment to the board

**Even though IDs are not involved in daily operations, they are equally liable for board decisions** if negligence is proven.

### **C: STAKEHOLDER RELATIONSHIP COMMITTEE (SRC)**

*(Section 178(5) of the Companies Act, read with SEBI LODR)*

#### **1. Applicability**

Section 178(5) requires:

- **Listed companies**
- Companies with >1,000 security holders

to constitute a **Stakeholders Relationship Committee**.

#### **2. Composition**

- Minimum **3 directors**

- At least one shall be a **Non-Executive Director**
- In listed companies, typically chaired by an Independent Director

### **3. Key Responsibilities**

#### **A. Investor/Shareholder Grievance Redressal**

Handling complaints related to:

- Transfer/transmission of shares
- Dematerialization issues
- Dividend delays
- Annual report errors
- Non-receipt of securities

#### **B. Monitoring RTA Performance**

- Overseeing Registrar & Transfer Agent service quality
- Ensuring compliance with SEBI norms

#### **C. Reviewing Trends & Systemic Issues**

- Identifying repeated issues
- Recommending corrective actions

#### **D. Enhancing Stakeholder Communication**

- Reducing dispute resolution timelines
- Improving transparency

### **D: NOMINATION & REMUNERATION COMMITTEE (NRC)**

*(Section 178(1) & (2) of Companies Act + SEBI LODR)*

#### **1. Purpose of NRC**

The NRC ensures:

- Merit-based appointment of directors/KMPs
- Fair & transparent remuneration
- Board effectiveness evaluation
- Leadership succession

## **2. Composition**

Under the Companies Act:

- **Three or more Non-Executive Directors**
- At least **half shall be Independent Directors**
- Chairperson of the company **cannot** chair the NRC

SEBI LODR adds:

- Mandatory presence of Independent Directors in listed companies

## **3. Key Functions of NRC (Section 178)**

### **A. Appointment & Qualification**

- Identify qualified individuals for Board positions
- Review skill matrix and Board composition
- Promote diversity (gender, background, expertise)

### **B. Performance Evaluation**

- Board evaluation (annual)
- Committee evaluation
- Individual Director evaluation
- Independent Director effectiveness review

### **C. Remuneration Policy**

- Develop a transparent and fair remuneration policy
- Ensure compensation:
  - Attracts and retains talent
  - Aligns with long-term interests
  - Avoids excessive pay
  - Is linked to performance metrics

### **D. Succession Planning**

- Creating leadership pipeline
- Ensuring continuity for key roles

## **CONCLUSION: INTEGRATED ROLE OF DIRECTORS & COMMITTEES IN GOVERNANCE**

The Companies Act, 2013 elevates the expectations from directors by:

- Codifying duties
- Strengthening accountability
- Mandating Board diversity
- Emphasizing independent oversight
- Requiring structured committee functioning

Together, the Board, EDs, NEDs, IDs, NRC, and SRC form the **core governance ecosystem** that ensures:

- Transparency
- Ethical conduct
- Strategic leadership
- Stakeholder trust
- Long-term value creation